

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ASHU SHUKLA,

Plaintiff,

-v-

APPLE INC., et al.,

Defendants.  
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21-CV-3287 (JMF)


ORDER

JESSE M. FURMAN, United States District Judge:

On December 23, 2021, Defendant Deloitte Consulting LLP filed a letter asking the Court to dismiss Plaintiff Ashu Shukla's December 17, 2021 Notice of Appeal, ECF No. 105, on the basis that it is untimely. *See* ECF No. 106. The Court is inclined to agree that the notice of appeal is invalid, both because it is untimely and because the relevant order is non-final. *See Dubnoff v. Goldstein*, 385 F.2d 717, 721 (2d Cir. 1967) ("A determination of a District Judge not to disqualify himself is ordinarily reviewable only upon appeal from a final decision on the cause in which the application by affidavit was filed."). That said, Deloitte has not cited any authority indicating that a district court has jurisdiction to dismiss or strike an untimely or otherwise defective notice of appeal, nor has the Court been able to locate any. In fact, several Circuits have indicated that district courts lack such authority. *See e.g., Willis v. Town of Trenton*, No. 95-2777, 1996 WL 148368, at \*1 (4th Cir. Apr. 2, 1996 (concluding that the district court did not have jurisdiction to strike an untimely notice of appeal); *Hogg v. United States*, 411 F.2d 578, 580 (6th Cir. 1969); *Moore v. Hood Cnty.*, No. 93-1529, 1994 WL 122162, at \*1 (5th Cir. Mar. 25, 1994); *see also* 2A Fed. Proc., L. Ed. § 3:610 ("[A] district court has no power to strike a notice of appeal."). Accordingly, Defendant's application is hereby DENIED.

SO ORDERED.

Dated: January 3, 2022  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge